

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Judge Robert W. Schroeder III

VIRNETX INC., et al §
V. § CIVIL NO. 6:12cv855
APPLE INC. §

MINUTES FOR EIGHTH DAY OF TRIAL- PHASE 2
HELD BEFORE JUDGE ROBERT W. SCHROEDER III
APRIL 11, 2018

OPEN: 8:46 am

ADJOURN: 7:31 pm

ATTORNEYS FOR PLAINTIFFS: See Attorney Sign In Sheet from April 2, 2018

ATTORNEYS FOR DEFENDANT: See Attorney Sign In Sheet from April 2, 2018

LAW CLERK: Aisha Haley

COURTROOM DEPUTY: Betty Schroeder

COURT REPORTER: Kelly Polvi

8:46 am Outside the presence of the jury, the Court and parties (Mr. Desmarais and Mr. Cassady) discuss bringing in the prior verdicts and IPRs; Mr. Cassady advises the Court of the evidentiary matters that have been resolved; Mr. Cassady argues Mr. Stauffer testifying to the 311 patent/willfully infringing; Mr. Desmarais responds; Mr. Caldwell responds; Court responds; Mr. Summers argues preliminary instructions; Ms. Jennifer Przybylski responds; Court responds; Mr. Desmarais objects to VirnetX playing depositions of random Apple witnesses; Mr. Cassady responds

9:09 am Jury seated

9:10 am Court gives preliminary instructions

9:21 am Mr. Caldwell begins opening statement

9:32 am Mr. Chris Stewart calls Dr. Mark Jones; witness previously sworn in; Mr. Stewart begins direct examination of Dr. Jones

9:52 am Mr. Desmarais begins cross examination of Dr. Jones

10:17 am Mr. Stewart begins re-direct examination of Dr. Jones

10:21 am Mr. Desmarais begins re-cross examination of Dr. Jones

10:23 am Recess

10:43 am Outside the presence of the jury, Mr. Caldwell advises the Court the Plaintiff rests; Mr. Arovas questions as to whether Plaintiff will object to defendant making their JMOLs at a later time; no objection

10:45 am Jury seated; Mr. Caldwell informs the jury that the Plaintiff rests

10:45 am Mr. Desmarais gives opening statement

10:59 am Mr. Desmarais calls John Stauffer; witness sworn in

10:59 am Mr. Mike Stadnick begins direct examination of Mr. Stauffer

11:18 am Bench conference

11:20 am Mr. Stadnick continues with direct examination of Mr. Stauffer

11:38 am Mr. Ward begins cross examination of Mr. Stauffer

12:05 pm Mr. Stadnick begins re-direct examination of Mr. Stauffer

12:10 pm Mr. Ward begins re-cross examination of Mr. Stauffer

12:12 pm Recess

1:19 pm Outside the presence of the jury, bench conference

1:20 pm Jury seated

1:21 pm Mr. Desmarais calls Simon Patience by video deposition

2:01 pm Mr. Desmarais calls Lee Van Pelt; witness sworn in

2:02 pm Mr. Ameet Modi begins direct examination of Mr. Van Pelt

2:19 pm Mr. Modi offers exhibits DTX 93, 94, 97 and 98 into the record; no objections

2:44 pm Mr. Caldwell begins cross examination of Mr. Van Pelt

2:48 pm Courtroom sealed

3:10 pm Courtroom unsealed

3:26 pm Mr. Modi begins re-direct examination of Mr. Van Pelt

3:27 pm Mr. Caldwell begins re-cross examination of Mr. Van Pelt

3:28 pm Jury out

3:28 pm Outside the presence of the jury, Mr. Desmarais informs the Court that was their last witness

3:29 pm Recess

3:43 pm Outside the presence of the jury, Mr. Desmarais informs the Court Apple has filed its JMOLs today; Mr. Summers responds; Court will carry the motions; Mr. Summer moves for JMOL on willfulness; Mr. Desmarais responds; Court will carry the motion; Court informs the parties of the changes made to submissions of the party on the instructions; Mr. Summers argues VirnetX's objections; Ms. Przybylski responds; Court responds; Ms. Przybylski argues Apple's objections; Mr. Summers responds; Court responds

3:56 pm Recess

4:01 pm Outside the presence of the jury, Mr. Caldwell questions the Court regarding time split on closing; Court responds

4:02 pm Jury seated

4:02 pm Mr. Desmarais informs the Court that Apple rests; Mr. Cassady informs the Court that VirnetX rests; Mr. Cassady offers demonstrative exhibits into the record; no objections; Mr. Cassady offers final exhibit list; Mr. Desmarais offers exhibits 93, 94, 97 and 98; no objections

4:03 pm Court gives jury instructions

4:22 pm Mr. Caldwell begins closing statement

4:35 pm Mr. Desmarais gives closing statement

4:50 pm Mr. Caldwell completes closing statement

4:54 pm Jury out for deliberation

4:55 pm Recess

5:19 pm Note from jury - bench conference with counsel; response to jury note

5:25 pm Written response given to jury

7:19 pm Note from jury - verdict

7:20 pm Outside the presence of the jury, the Court informs the parties a verdict has been reached

7:21 pm Jury seated

7:21 pm Court asks the foreperson if the jury has reached a verdict; foreperson responds that a verdict has been reached and that it is unanimous

7:22 pm Verdict is read

7:23 pm Court polls the jury; all stood

7:23 pm Court thanks the jury

7:26 pm Jury excused

7:26 pm Outside the presence of the jury, the Court discusses post trial motions and timing; any corrections to transcript are to be provided to us by next Friday, April 20; within 30 days of the filing of transcripts all post-trial motions will be due; responses due 14 days later; replies due 7 days after that; page limits - motions 45 pages per side; responses 45 pages per side; 15 pages replies; parties are to meet and confer by next Friday to submit an agreed schedule for post-trial briefing; hearing will be set after agreed schedule; Mr. Caldwell questions the Court regarding sur-replies; Court will allow an additional 7 days for sur-replies and 15 pages; Court thanks everyone for a great job

7:31 pm Recess